MEMORANDUM

TO: REGIONAL DIRECTORS

FROM: John M. Daniel, Jr., P.E., DEE
Director, Air Division

SUBJECT: Guidance Memo No. 05-1001. Air Permit Application Fee Guidance

DATE: **July 29, 2005**

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I. Purpose.

This policy is intended to provide regional personnel with guidance in the implementation of Chapter 80, Article 10 "Permit Application Fees". With this guidance, the staff (and public) should be able to:

1. Make the correct applicability determination for a stationary source subject to air permit application fees (Section IV).

2. Determine the proper permit application fee for any NSR air permit application (Section V).

3. Determine whether or not the proper air permit application fee has been submitted to DEQ (Section VI).

4. Manage the air permit application review process with the new permit application fee requirements (Section VII).

5. Take the proper action if the air permit application fee was not submitted with the application, the amount of the fee submitted was incorrect, or the permit application fee was submitted in error (Section VIII).

II. Background.

In the 2004 Acts of Assembly, the General Assembly passed legislation amending §10.1-1322 of the Code of Virginia to require the State Air Pollution Control Board to "collect a permit application fee amounts not to exceed $30,000 from applicants for a permit for a new major stationary source".[1] The purpose of the law was to allow the Commonwealth to recover the cost of reviewing air permit applications for new major stationary sources that are never built or operated. To mitigate the impact of these permit application fees on sources that did build and operate, the law also provided that the "permit application fee amount shall be credited towards the amount of annual fees owed… during the first two years of the source's operation."

In proposing regulatory language to implement the law, DEQ recognized that the term "new major stationary source" could be interpreted in a number of ways. In keeping with the perceived intent of the law, the regulation was made applicable only to applications for a proposed stationary source as follows:

(1) The proposed stationary source is "new" in the sense that the proposed site or facility, as it exists prior to the application, does not yet meet the regulatory definition of "stationary source"; and.

(2) The proposed "new" stationary source will also be classified as a "major source" or as a "major stationary source" under one or more of the applicable NSR permit programs. The law was drafted with the intention that permit application fees apply only to stationary sources that are large enough to pay annual permit fees, not to small stationary sources whose uncontrolled emission rate temporarily qualifies them as major only until a permit is issued. Consequently, for permit application fee purposes, the determination of whether or not the stationary source is a "major stationary source" should be based on the allowable emissions once the permit is issued, not upon an uncontrolled emissions rate that a federally/state enforceable permit will never allow the source to achieve.

To facilitate these determinations, the common term "undeveloped site" was defined in the regulation so as to include any site that is not yet a stationary source. The term "site" had not been defined in the regulation, but the term was only intended to refer to the ground beneath the proposed construction and not to include any nearby property. So as to avoid misconceptions later about whether or not a certain site is undeveloped, the term "site" is defined in this guidance. Also, for the purposes of this guidance, it was clearer and more useful to define the term "new"[2] than it was to continually refer to "construction, relocation or reactivation" of a major stationary source."

In determining how much to charge for air permit application fees, DEQ used historical data to estimate the average number of man-hours that has been required to issue a permit subject to each permit program. Those numbers were then multiplied by a conservative cost to the department per man-hour to get the final average cost to issue a permit of each type. DEQ recognized that a single application may be subject to several air NSR permit programs concurrently[3]. As a result, the permit

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[1] Chapters 249 and 324 of the 2004 Acts of Assembly were approved by the General Assembly on March 17, 2004 and signed into law by the Governor on March 31, 2004. The new provisions of the law became effective on July 1, 2004.

[2] Note that the term "new" is defined for the purposes of this guidance very differently than the term "new source" as it is defined in 9 VAC 5-80-1110 C. The term "new" is used in this guidance with respect to a point in present time, while in Article 6 the term "new source" is defined and used in the context of a past date that divides those sources subject to existing source rules and those subject to new-and-modified-source rules.

[3] This is because the NSR permit programs are applicable pollutant-by-pollutant and so the provisions of Article 6 are still applicable to those pollutants not subject to review under the Major Source NSR permit programs.

application fees for each applicable air NSR program are to be added together when determining the final fee amount.

III. Definitions.

Most terms are either defined only once in the regulations or are defined consistently. Those definitions are repeated here for convenience. When two or more definitions of the same term are substantially the same between two different regulations, brackets will be used to indicate the differences, but the reader will have to refer to the regulation to determine which wording applies within the actual regulation. A few terms are defined very differently in different places in the regulations. In this guidance, such terms may be defined by reference to the applicable regulation instead of being defined separately in this guidance. Alternatively, just one of the several definitions may be chosen for use in this guidance memo. From this point on, when a defined term is used in this guidance memo, italics will be used to indicate that a definition is available in this section.

"Construction" means fabrication, erection or installation of an *emissions unit,* (9 VAC 5-80-1110 C). Other definitions apply within the applicable regulations, particularly in Articles 7, 8 and 9 of chapter 80. But within this guidance document, this is the definition intended when referring to construction.

"Emissions unit" means any part of a *stationary source* which emits or would have the *potential to emit* any air *pollutant,* (9 VAC 5-10-20). Other definitions apply within the applicable regulations, particularly in Articles 7, 8 and 9 of chapter 80. But within this guidance document, this is the definition intended when referring to an emissions unit.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating and power plants, apparatus, processes, operations, structures, and equipment of all types (9 VAC 5-10-20).

"Hazardous air pollutant" means any air *pollutant* listed in § 112(b) of the federal Clean Air Act, as amended by 40 CFR 63.60 (9 VAC 5-80-1110 C and 9 VAC 5-80-1410 C).[4]

"Major source" means any *stationary source* or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any *hazardous air pollutant* or 25 tons per year or more of any combination of *hazardous air pollutants,* unless the board establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence (9 VAC 5-80-1410 C).

"Major *stationary source*" is defined in 9 VAC 5-80-1110 C for sources subject to the provisions of Article 6, in 9 VAC 5-80-1710 C for sources subject to the provisions of Article 8 and in 9 VAC 5-80-2010 C for sources subject to the provisions of Article 9.

[4] A more descriptive, but less useful, definition of "hazardous air pollutant" appears in 9 VAC 5-10-20. Refer to the version of 40 CFR 63.60 adopted by reference for the current effective list of HAPs. The specific version that is adopted by reference is listed in 9 VAC 5-60-90. EPA's web page (http://www.epa.gov/ttn/atw/pollutants/atwsmod.html) contains the most current federal HAP list, but recent federal changes to that list may not yet be incorporated by reference into Virginia regulations. The version incorporated by reference into Virginia regulations takes precedence over any newer federal list.

"New" means, when referring to a proposed *stationary source*, that (1) the proposed stationary source is not part of the another "stationary source" (as the term is defined), and (2) that the entire stationary source will be composed of *emissions units* proposed for *construction* (including fabrication, erection, or installation)[5] on the site, *relocation* to the *site* or *reactivation* at the *site*.

"New source review program" or "NSR program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with Article 6 (9 VAC 5-80-1100 et seq.), Article 7 (9 VAC 5-80-1400 et seq.), Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of 9 VAC 5 Chapter 80 (9 VAC 5-50-250 C).

"Nonattainment pollutant" means within a nonattainment area, the pollutant for which such area is designated nonattainment. For ozone nonattainment areas, the nonattainment pollutants shall be volatile organic compounds (including hydrocarbons) and nitrogen oxides (9 VAC 5-80-2010 C).

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property (9 VAC 5-10-20).

"Potential to emit" [or "PTE"] means the maximum capacity of a *stationary source* to emit a *pollutant* under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a *pollutant*, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable (9 VAC 5-10-20 and 9 VAC 5-80-1410 C). [Secondary emissions do not count in determining the potential to emit of a *stationary source*, (9 VAC 5-80-1110 C, 9 VAC 5-80-1710 C and 9 VAC 5-80-2010 C)].

"Reactivation" means beginning operation of an *emissions unit* that has been shut down (9 VAC 5-80-1110 C and 9 VAC 5-80-2260 D. See 9 VAC 5-20-220 Shutdown of a stationary source.)

"Regulated air *pollutant*" means any of the following:

1. Nitrogen oxides or any volatile organic compound;
2. Any *pollutant* for which an ambient air quality standard has been promulgated;
3. Any *pollutant* subject to any standard promulgated under § 111 of the federal Clean Air Act;
4. Any *pollutant* subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning *hazardous air pollutants* and any *pollutant* regulated under 40 CFR Part 63; or
5. Any *pollutant* subject to a regulation adopted by the board

(9 VAC 5-80-1110 C and 9 VAC 5-2010 C).

"Relocation" means a change in physical location of a *stationary source* or an *emissions unit* from one *stationary source* to another *stationary source* (9 VAC 5-80-1110 C).

"Site" means the local position or ground upon which the proposed stationary source (or *facility*) is located or will be located.

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[5] Although the term "construction" defined in Chapters 8 and 9 includes "modification" and "reconstruction", those activities assume previously existing emissions unit at the site. Such a stationary source can neither be a "new" stationary source nor located at an "undeveloped site". Those two activities are therefore excluded from this definition of "new".

"Source category list" means the list and schedule issued pursuant to §112(c) and (e) for promulgating MACT standards issued pursuant to §112(d) of the federal Clean Air Act and published in the Federal Register at 63 FR 7155, February 12, 1998 (9 VAC 5-80-1410 C).[6]

"Stationary source" is defined in 9 VAC 5-80-1110 C for sources subject to the provisions of Article 6, in 9 VAC 5-80-1420 C for sources subject to the provisions of Article 7, in 9 VAC 5-80-1710 C for sources subject to the provisions of Article 8 and in 9 VAC 5-80-2010 C for sources subject to the provisions of Article 9.

"Undeveloped *site*" means any *site* or *facility* at which no *emissions units* are located (9 VAC 5-80-2260 D).

IV. The Article 10 applicability determination: Will this application be subject to a permit application fee?

A correct determination of the applicability of Article 10 (Air Permit Application Fees) to permit applications relies upon a correct determination of:

(1) Whether the proposed *new stationary source* is subject to one or more of the four New Source Review (NSR) permitting programs (Chapter 80, Articles 6, 7, 8, or 9);
(2) Whether the proposed *site* for the *new stationary source* is an "*undeveloped site*";
(3) Whether the proposed *stationary source* is a "*new*" *stationary source*; and
(4) Whether the amount of emissions of *pollutants* that are regulated under an applicable NSR permit program (or programs) will be large enough to meet the definition of "*major stationary source* or "major source" under that NSR program.

Which (if any) of the NSR permit programs apply to the proposed *stationary source*?

Only those applications that are subject to one or more of the four NSR permit programs are subject to permit application fees. So determining which, if any, of the NSR permit programs is applicable is the first key step in determining if a permit application fee will be required. This initial *NSR Program* applicability determination requires a pollutant-by-pollutant calculation of the *potential to emit* of the proposed *stationary source*. The applicability determination is then based upon whether or not the calculations indicate that any *pollutant* is above the applicability threshold for that particular NSR permit program.

This question is answered authoritatively by DEQ well after the application has been submitted. However, applicants must make their own applicability determination if they are going to submit the proper permit application fee with the application. Applicants may predict DEQ's initial program applicability determination by using the criteria that DEQ uses:

A. The Article 6 *NSR Program* generally requires that the *construction*, reconstruction, relocation or modification of any applicable stationary source must have a permit prior to commencing *construction*, unless the change is exempt. For "*new*" sources and "*new*"

[6] The federal source category list is periodically updated in the Federal Register for changes to the list. Refer to the EPA webpage at http://www.epa.gov/ttnatw01/socatlst/socatpg.html for the most current federal list. This version of the "source category list" is provided in Virginia regulations and it takes precedence over any more recent changes to the federal list.

stationary sources, that applicability determination is made based upon the applicability criteria of 9 VAC 5-80-1100 and:

1. The definitions of "*construction*", "*relocation*", "*reactivation*", and "*stationary source*" in 9 VAC 5-80-1110 C,
2. The exemptions listed in 9 VAC 5-80-1320 (and certain exclusions to those exemptions listed in 9 VAC 5-80-1100),
3. The general requirement to have a permit in 9 VAC 5-80-1120 A.

Currently, for a "*new*" *stationary source*, the Article 6 permit applicability determination requires a calculation of the *potential to emit* (PTE) for each of the *regulated air pollutants* that will be emitted, and may require the inclusion of fugitive emissions in accordance with 9 VAC 5-80-1110 C. For Article 6 permit applicability purposes, the PTE represents the potential emissions rate of the proposed stationary source without considering any proposed emissions controls or permit limits. (This is in contrast to the PTE calculated for determining whether the application is for construction and operation of a "major stationary source", discussed later.)

For the purposes of determining NSR Program applicability for permit application fees, individual *regulated air pollutants* that are subject to review under Articles 8 or 9 will not be considered to be subject to Article 6.[7] However, if a stationary source is subject to Articles 8 or 9 for some *pollutants*, and is still subject to Article 6 for other *pollutants*, then permit fees may apply for both (or even all three) programs.

Article 6 is the normal permitting program for implementing MACT requirements for "*new*" sources (see 9 VAC 5-80-1120 H). Normally, individual HAPs that are subject to review under the HAP Major Source NSR permitting program (Article 7) should not also be subject to review under Article 6 (as HAPs). However, many individual HAPs are also considered VOC and/or particulate matter (PM). So it is possible that HAPs that are subject to NSR review requirements under Article 7 may also contribute to the stationary source's potential to emit VOC and/or particulate matter (PM) and thus may also subject the application to Article 6 NSR review requirements.

B. With some exceptions[8], Article 7 is applicable to applications for major sources of *Hazardous Air Pollutants* (HAPs) for which EPA has not promulgated a MACT standard. The applicability determination for Article 7 is based upon:

1. The applicability criteria in 9 VAC 5-80-1400,
2. The definitions of "*major source*" and "affected source" in 9 VAC 5-80-1410 C and
3. The general requirement to have a permit in 9 VAC 5-80-1420 A.

For a "*new*" *stationary source*, that determination requires a calculation of the *potential to emit* of each of the *hazardous air pollutants* that will be emitted. The determination also

[7] This assumption is a convenience for avoiding duplication of charges for permit application fees for the same pollutant under two programs. In actuality, the provisions of Article 6 apply to stationary sources subject to Major Source NSR review under Articles 8 and 9 also, except where the provisions of those programs conflict. See 9 VAC 5-80-1100 H.

[8] See 9 VAC 5-80-1400 F for exceptions. Technically, Article 7 is still applicable to sources in a "gap group" of source categories for which EPA has promulgated a MACT standard until the standard is incorporated by reference into Chapter 60, Article 2. However, considering the fact that including the requirements of the EPA-promulgated MACT standard into an Article 7 permit would require no more work than including the requirements of the equivalent Chapter 60, Article 2 MACT standard into an Article 6 permit, it is more appropriate to charge the lower permit application fee for applicability under Article 6 as soon as EPA has published the MACT standard, as if the source was already no longer subject to Article 7 permitting requirements. So although it is not technically correct for permitting purposes, for permit application fee purposes the lower Article 6 fee amount is more appropriate fee for that "gap group".

requires a review of the published MACT standards[9] and a review of the *source category list* and the latest updates to that list to determine those source categories for which EPA has made a determination that a MACT standard is not required (and has therefore been deleted from the list).

Individual HAPs that are not subject to the review under the Article 7 HAP major source permitting program may still be subject to review as HAPs under the Article 6 NSR permit program. Also, applicability under the Article 7 HAP major source permitting program does not preclude applicability under Articles 6, 8 or 9 for other regulated *pollutants*. Individual HAPs may also be simultaneously subject to regulation as VOC or particulate matter (PM) under Articles 6, 8 or 9.

C. The PSD Major Source *NSR Program* (Article 8) is generally only applicable to *major stationary source*s which will emit air *pollutants*[10] regulated by the Clean Air Act (CAA), and which are locating in areas classified as "attainment" for those *pollutants*. For "*new*" stationary sources, that determination is based upon:

1. Whether or not the stationary source is to be constructed (relocated, reactivated) in one of the PSD areas designated in 9 VAC 5-20-205,
2. Whether or not the proposed stationary source will emit those *pollutants*[11] for which that area is considered "attainment" (i.e. not listed as "nonattainment" in 9 VAC 5-20-204),
3. Whether or not the proposed stationary source meets the definition of a "*major stationary source*" for any of those *pollutants* (9 VAC 5-80-1710 C), and
4. The general requirement for applicable major stationary sources to have a permit (9 VAC 5-80-1720 A).

For a proposed "*new*" *stationary source*, the PSD applicability determination requires a calculation of the *potential to emit* of each regulated air *pollutant* that will be emitted and may require modeling to determine if the ambient air threshold is exceeded. Fugitive emissions are included in that calculation only under certain circumstances (see the definition of "*major stationary source*" in 9 VAC 5-80-1710 C). *Pollutants* that are not subject to review under the provisions of Article 8 may still be subject to review under Article 6, 7 or 9.

D. The Nonattainment Major Source *NSR Program* (Article 9) is only applicable to a *major stationary source* which will emit *nonattainment pollutants*, and which is locating in an area that is classified as nonattainment for those *pollutants*[12]. For "*new*" stationary sources, that determination is based upon:

1. Whether or not the stationary source is to be constructed (relocated, reactivated) in a "nonattainment" area designated in 9 VAC 5-20-204,

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[9] The MACT standards that have been incorporated by reference into the Virginia regulations are found in 9 VAC 5-60-100. The latest list of EPA-promulgated MACT standards, together with their publication date and effective date, is available (listed alphabetically by source category) at http://www.epa.gov/ttn/atw/mactfnlalph.html or (listed by source category list bin) at http://www.epa.gov/ttn/atw/mactfnl.html.

[10] Excluding HAPs subject to review under CAA Section 112(b). The PSD regulated pollutants are listed in the definition of "significant" in Chapter 80, Article 8, 9 VAC 5-80-1710 C.

[11] See the list of pollutants in 9 VAC 5-20-205 or in the definition of "significant" in 9 VAC 5-80-1710 C.

[12] As of the time of writing this memo, ozone is the only pollutant for which any area in Virginia is classified as nonattainment. EPA is currently considering standards for fine particulate matter (PM2.5), which may result in areas classified as nonattainment for particulate matter. In that event, 9 VAC 5-20-204 will be updated to reflect the new nonattainment areas.

2. Whether or not the proposed stationary source will emit pollutants for which the area is considered "nonattainment" (see 9 VAC 5-20-204).

3. Whether or not the proposed stationary source meets the definition of a "*major stationary source*" in 9 VAC 5-80-2010 C for the nonattainment area in which it is located, and

4. The general requirement for applicable major stationary sources to have a permit (9 VAC 5-80-2020 A).

For a proposed "*new*" *stationary source*, the nonattainment applicability determination requires a calculation of the *potential to emit* of each of the regulated air *pollutants* that will be emitted. Fugitive emissions are included in that calculation only under certain circumstances (see the definition of "*major stationary source*" in 9 VAC 5-80-2010 C). *Pollutants* that are not subject to review under the provisions of Article 9 may still be subject to review under Articles 6, 7 or 8.

If none of the NSR permit programs are applicable to the proposed new stationary source, then the application is not subject to permit application fees, regardless of the source's potential-to-emit. For example, suppose a proposed "*new*" stationary source will consist solely of four boilers that would each be exempt from Article 6 requirements under 9 VAC 5-80-1320 B. Suppose that the only *pollutant* emitted by the four boilers that has a potential-to-emit greater than 100 tons is CO. The proposed stationary source would be classified as a "*major stationary source*" under Article 6 because it has the potential to emit a regulated air *pollutant* greater than 100 tons per year. However, because the source is exempt from any permitting requirements, it is not subject to permit application fees even though it is technically a *new* "*major stationary source*".

Is the proposed *site* for the *stationary source* an "*undeveloped site*"?

In writing the regulation (Chapter 80, Article 10), the term "*site*" was meant to be interpreted quite restrictively (as it is in the dictionary) as the local position upon which the proposed *stationary source* will be located, i.e. the ground on which the footings and floor of the stationary source will be constructed or the individual buildings that will contain the *emissions units*. The term was not meant to include any adjacent properties, facilities or buildings that were devoted to another use or dedicated to another stationary source, even if they were in immediate proximity to the site of proposed *construction*, were located on shared property, or were owned by the same company.

If there are no *emissions units* already legally authorized to operate at the proposed site of the stationary source, then the site is an undeveloped site for the purposes of air pollution control. The following sites, among others, would be classified as *undeveloped sites*: "green field" sites (i.e. where the ground and vegetation are undisturbed); areas cleared of trees, vegetation, and/or overburden such as might occur during logging or pre-construction activities; *site*s that are commercially developed but have no *emissions units* authorized for that location (grocery stores, parking lots, post offices); and "brown field" *site*s (such as reclaimed industrial sites that have had all their emission units removed).

Is the application for a "*new*" *stationary source*?

Only applications proposing to construct a *stationary source* by the *construction*, *relocation* or *reactivation* of *emissions units* on the proposed site can be considered an application for a "*new*" *stationary source*. The original source of the *emissions unit* or units that make up the *new stationary source* is irrelevant. They may be proposed to be relocated from a *stationary source* down the street

or across town. They may already be on the *site* (e.g. permanently shutdown or stored *emissions units*). They may even be operating on *site* already in violation of Virginia permitting requirements. Nonetheless, if no *emissions units* are yet authorized to operate at that *site*, then the proposed *stationary source* is "*new*".

If the application proposes to construct, relocate or reactivate *emissions units* that will be part of a previously existing "*stationary source*" (as that term is defined in the applicable *NSR Program*), then the application is NOT for a "*new*" *stationary source*. Instead, this application is for a modification of the previously existing *stationary source* and the application will NOT be subject to permit application fees.

Normally, *emissions units* that are constructed, relocated or reactivated on an "undeveloped site" constitute a *new* stationary source, regardless of the proximity of another stationary source. However, there are certain situations in which an entire *new* stationary source may be deemed to be part of an adjacent stationary source, depending on its function and control relationships with the nearby source. This determination requires an examination of the proposed *new* stationary source with respect to the definition of "building, structure, *facility*, or installation" under Articles 8 and/or 9 (9 VAC 5-80-1710 C and 9 VAC 5-80-2010 C, respectively) and with respect to the definition of "stationary source" under Article 6 (9VAC 5-80-1110 C).[13] EPA guidance is available to assist in making this determination for the Major Source *NSR Programs*[14,15,16]. In such a case, the proposed "*new*" stationary source would not be subject to permit application fees, but DEQ will make that determination.

An application for "reconstruction," "modification" or "major modification" of a stationary source is not an application for a "*new*" stationary source.

Are emissions from the *new* source large enough to be "major" under the applicable *NSR Program*?

For "*new*" stationary sources subject to NSR review under Chapter 80, Articles 7, 8 and 9, this determination has already been made. Those are the Major Source New Source Review permit programs. The *NSR Program* applicability determination under these programs included a determination of whether the proposed "*new*" *stationary source* had the potential to emit at least one regulated air *pollutant* at a rate high enough to meet the definition of "*major stationary source*" or "major source". Applications for these "*new*" stationary sources will be subject to a permit application fee.

For "*new*" stationary sources that emit pollutants that are only subject to review under Article 6, the determination of whether or not the amount of those emissions is "major" requires a look at (1) whether or not the stationary source is a "major stationary source" for any pollutant, and (2) whether or not the stationary source is a "major source" for HAPs:

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[13] Because of similarities in the regulatory language, a determination that two related stationary sources actually constitute a single stationary source under one of the Major Source NSR programs usually extends to the other NSR permitting programs as well.

[14] William A. Spratlin, EPA Region VII letter to Peter R. Hamlin, Iowa DNR dated September 18, 1995.

[15] John Seitz, EPA OAQPS memorandum "Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the Clean Air Act" dated August 2, 1996.

[16] EPA guidance issued under the previous EPA PSD regulations are still useful for common control determinations under Virginia regulations, since Virginia has not adopted EPA's new Major NSR Program regulations.

1. To determine if the emissions of regulated pollutants (other than HAPs) are enough for the source to be considered a *major stationary source*, the potential to emit (PTE) of each of those pollutants must be calculated, considering all of the controls and limits that will be placed upon the proposed stationary source by the federally enforceable NSR permit that will be issued. The following rules are useful for determining PTE for the purpose of determining applicability for permit application fees for sources subject to Article 6:[17]
   - Calculating PTE for determining whether the application is for "construction and operation" of a stationary source that will meet the definition of a "major stationary source" under Article 6 is entirely different from calculating PTE for permit applicability purposes:

     (1) Even though the emissions from individually "exempt" emission units are not included in the calculation of PTE for the purpose of determining permit applicability[18], they do contribute to the size of a "major stationary source" (as the term is defined in 9 VAC 5-80-1110 C). Therefore, emissions from those individually exempt *emissions units* are included in the determination of PTE for the purposes of determining whether or not the proposed source will be a *major stationary source*.

     (2) For the purpose of determining whether the application is for construction/relocation/reactivation and operation of a "major stationary source", the calculation of PTE must consider any federally and state enforceable limitations that will be placed upon the source by the permit under which it will operate. (Compare this with the determination of PTE for permit applicability purposes, in which only those limits that are enforceable before the NSR permit is issued may be considered in calculating the PTE.)
   - Fugitive emissions are included in determining PTE, unless all of the emissions are fugitive.[19]
   - Secondary emissions do not count in determining the PTE of a stationary source.[20]

   The resulting calculated potential-to-emit for each of the pollutants is then compared with the definition of *major stationary source* in 9 VAC 5-80-1110 C. If the proposed stationary source will be a *major stationary source* for any *pollutant*, then this application will be subject to permit application fees.

2. For "*new*" stationary sources subject to a published MACT standard[21] under the provisions of Article 6 [22], the potential to emit must also be compared with the definition of "major source" in 40 CFR §63.2 and in the applicable standard. If the "*new*" *stationary source* is a "*major source*" according to these criteria, then the application will be subject to permit application fees.

V. Determining the amount of the Permit Application Fee.

Once that permit fees are determined to be applicable to the permit application, then the amount of the permit application fee is determined by considering ALL of the types of different *NSR Programs* that

[17] These rules are useful for Article 6 only, and cannot be used to calculate PTE under the other NSR permit programs.
[18] 9 VAC 5-80-1320 C 2.
[19] 9 VAC 5-80-1100 D.
[20] 9 VAC 5-80-1110 C, definition of "potential to emit".
[21] For the purposes of determining the applicability of Article 6 under 9 VAC 5-80-1120 H, the applicable federal MACT standards that are implemented through Article 6 are indicated in the definition of "federal hazardous air pollutant new source review program" in 9 VAC 5-80-1110 C. The official list of promulgated MACT standards that are adopted by reference into Virginia regulations, is contained in Chapter 60 in Article 2 (9 VAC 5-60-100).
[22] 9 VAC 5-80-1120 H.

are applicable to the proposed source. An amount will be added to the total permit application fee for each NSR program that the application will be subject to.

The amount of the fee is NOT determined by the source's potential to emit any of the pollutants (except, by way of determining the NSR program applicability). The amount of the fee is NOT determined by the number of pollutants to which a particular *NSR Program* is applicable (the amount assessed for each applicable NSR program is only assessed ONCE regardless of the number of pollutants subject to review under that program). The amount of the fee is NOT determined by those NSR programs under which the source was determined to be "major". Once the source is determined to be a "major stationary source" under ANY of the NSR Programs, then the amount of the fee is assessed based on ALL of the NSR programs under which NSR review will be required (not just those under which the source meets the definition of a "major stationary source").

Once the source has been determined to be subject to Article 10 permit application fees, the amount of the permit application fee may be determined by answering the following questions. Each affirmative answer adds the stated amount to the permit application fee subtotal. Each amount is only added ONCE.

1. Is the "*new*" *stationary source* subject to the provisions of Article 7 (as a *major source* of *hazardous air pollutants* as these terms are defined in 9 VAC 5-80-1410 C)? If yes, add $15,000 to the subtotal ONCE.
2. Is the "*new*" *stationary source* proposed to be located in a Nonattainment Area and subject to the provisions of Article 9 (as a *major stationary source* for one of the *nonattainment pollutants)*? If yes, add $20,000 to the subtotal ONCE.
3. Is the "*new*" *stationary source* subject to the provisions of Article 8 (as a *major stationary source* for any *pollutant* subject to the Clean Air Act, excluding HAPs[23])? If yes, add $30,000 to the subtotal ONCE.
4. Is the "*new*" *stationary source* subject to the provisions of Article 6 (as either *a stationary source* of any *regulated air pollutant*[24] or as a *major source* that is subject to one of the MACT standards listed in Chapter 60, Articles 1 or 2)? If yes:
    a. Will any of the "new" *emissions units* be covered by a General Permits under the provisions of 9 VAC 5-80-1250? If yes, add $300 to the subtotal ONCE.
    b. Will any of the "new" *emissions units* that WILL NOT be covered by a General Permit, still be subject to the permit requirements of Article 6?[25] If yes, add $5300 to the subtotal ONCE.

[23] See 9 VAC 5-80-1700 E. These pollutants are listed in the definition of "significant" in 9 VAC 5-80-1710 C.

[24] Any *regulated air pollutant* that is also subject to review as a under Article 8 or 9 will not be counted as a pollutant subject to review under Article 6, for the purposes of Article 10 permit application fees. *Hazardous air pollutants* that are subject to review as a "major source" under Article 6 are only those major sources that are subject to a published MACT standard. Because Article 7 is specifically not applicable to major sources subject to a MACT standard, there will be no overlap between for the same major source subject to both Articles 6 and 7.

[25] See footnote 24. Each regulated air pollutant must be examined for applicability under Article 6 separately. If any regulated air pollutant is subject to permitting under Article 6 AND either Article 8 or Article 9, the fact that the pollutant is ALSO subject to Article 6 permit requirements WILL NOT trigger the $5300 permit application contribution. The $5300 permit application fee contribution is only triggered if there are regulated air pollutants that are subject to Article 6 and NOT subject to either Articles 8 or 9.

After answering all of these questions, if the resulting subtotal is greater than or equal to $30,000, then the amount of the permit application fee owed is $30,000. If the resulting subtotal is less than $30,000, then the amount of the permit application fee owed is equal to the amount of the resulting subtotal.

Example: An application has been submitted for an air permit for a new stationary source. The permit will limit the PTE of the stationary source to 300 tons per year of CO emissions, 100 tons per year of NOx emissions, 100 tons per year of VOC emissions and 20 tons per year of particulate matter (PM) emissions. The particulate matter is all emitted from rock crushers and screens that the owner wishes to cover with a general permit. The proposed source will be located in the Northern Virginia Ozone Nonattainment area for which the "major stationary source" definition includes all sources with a PTE of 50 tons per year of either NOx or VOC. Actual emissions are predicted to be 99 tons or less for any pollutant.

Step 1: There are no *Hazardous Air Pollutants* emitted, so the application is NOT subject to review requirements under Chapter 80, Article 7 (the HAP Major *NSR Program*). Nothing is added to the subtotal as a result of Step 1.

Step 2: The proposed source will be a "*major stationary source*" for both NOx and VOC in this nonattainment area. The application will be subject to the Nonattainment Major *NSR Program* for each of the pollutants NOx and VOC under the provisions of Chapter 80, Article 9. However, even though the source is "nonattainment major" for two pollutants, $20,000 is only added to the subtotal ONCE as a result of Step 3.

Step 3: The proposed source will be a "major stationary source" for the *pollutant* CO, for which Northern Virginia is classified as "attainment". The application will be subject to the PSD Major *NSR Program* for the *pollutant* CO under the provisions of Chapter 80, Article 8. $30,000 is added to the subtotal as a result of Step 2.

Step 4: Technically, the proposed source will also be a "major stationary source" under Article 6 for the pollutants CO, NOx, and VOC; but not for PM. Since the source is already subject to NSR program review permit application fees for CO, NOx and VOC under Articles 8 and 9, by convention we will say that the application will not also be subject NSR review for those pollutants under Article 6[24,25]. However, the application will still be subject to a permit application fee for any other permit applicability under Article 6; in this case, for particulate matter. This is because the "major stationary source" is still subject to permit review requirements under Article 6 for PM separate from the permit review requirements for CO, VOC and NOx under Articles 8 and 9.

> Step 4 a: The application proposes to cover all of the *emissions units* responsible for the particulate matter emissions under an Article 6 General Permit for nonmetallic mineral processing plants. So, if the source qualifies for coverage under a General Permit, $300 is added to the subtotal as a result of Step 4 a.
>
> Step 4 b: All of the *emissions units* are either already subject to permitting under Articles 8 and 9 or will be covered by a General Permit under Article 6. There are no remaining *emissions units* that will be subject to the application review requirements of Article 6 other than those in 9 VAC 5-80-1250 for the General Permit. Consequently, in this case nothing is added to the subtotal as a result of Step 4 b.

The resulting subtotal is $20,000 plus $30,000 plus $300, or $50,300. This amount is in excess of the maximum permit application fee allowed by 9 VAC 5-80-2270 B, which is $30,000. So the total permit application fee for this application is the maximum permit application fee allowed: $30,000.

NOTE: If a permit is not required for a "*new*" *major stationary source*, then a permit application fee is not required either. For example, the relocation of an entire previously permitted *portable stationary source* with a PTE of 100 tons per year of particulate matter is exempt under the provisions of 9 VAC 5-80-1320 A.1.c. So the relocation of this *"major stationary source*" to an "undeveloped site" would not require a permit or a permit application fee.[26]

VI. Determining whether or not the permit application fee has been submitted to DEQ.

If a permit application fee is applicable, then the permit application is not complete until a permit application fee in the proper amount is received by DEQ. Review of the application may not proceed past the initial *NSR Program* applicability determination until the proper permit application fee is received. In order to determine whether or not the application is complete and whether review of the application can proceed, the permit writer must be able to determine whether or not the fee has been received by DEQ.

The permit application fee is supposed to be paid by check, draft or postal money order made payable to the "Treasurer of Virginia." Although the permit application is sent by the applicant to the appropriate DEQ regional office, the applicant must send the fee payment directly to:

Department of Environmental Quality
Receipts Control
P.O. Box 10150
Richmond, Virginia 23240.

The payment must be accompanied by a completed payment form similar to Attachment A in order to ensure that it is correctly and promptly credited to the applicant. (A blank copy of the payment form is also included in the (Form 7) NSR and SOP Permit Application Form which is available on the DEQ website at http://www.deq.state.va.us/air/justforms.html).

In those few situations in which the payment and the payment form are inadvertently submitted with the application to the regional office instead of to the receipts control, the payment and the payment form should be given to the regional office manager to be forwarded to the Receipts Control post office box listed above (not sent directly to the DEQ finance office).

Once the payment has been processed and deposited to the proper account, a copy of the processed payment form will be forwarded to the regional office by the Finance Office. Procedures differ among regional offices for handling these forms, but usually they are then forwarded to the regional office's Permits Section to be filed with the application. A quick check of the permit application file would then reveal whether or not the permit application fee had been received.

[26] Except in the event that the change triggered NSR permitting requirements under another article of Chapter 80.

Payment information is also available to DEQ personnel on the internal DEQ website. Processed payments are posted at: http://deqnet/docs/default.asp?path=./main/admin/admin_finance/ar_dailydcs The RTL files found there are named according to the date that the payments were deposited in the bank by DEQ.

Questions from permit applicants concerning whether or not payments have been received or processed should be referred to the Permits Section in the appropriate regional office. After checking the database, if questions remain, then the regional DEQ staff may contact Judy Newcomb (jenewcomb@deq.virginia.gov) at Ext. 4162 or Leslie Boone (lpboone@deq.virginia.gov) at Ext. 4118 for assistance.

VII. Managing the permit application review process with Permit Application Fees.

If permit application fees are applicable, it affects the application review process in two places; (A) during the initial *NSR Program* applicability determination, and (B) in the process of updating the CEDS database for the "*new*" source.

A. At the time that the *NSR Program* initial applicability determination is made, the permit writer should:

1. Independently check the applicability of permit application fees to this application,
2. Independently calculate the amount of any permit application fee owed,
3. Check that the proper permit application fee amount has been submitted to the finance office, and
4. Include any permit application fee deficiencies with other application deficiencies listed in the initial applicability determination letter. The application is not complete until the applicant has submitted a permit application fee in the proper amount to the finance office through Receipts Control.

B. Once the CEDS module is revised to include permit application fee information, the regional office should:

1. Include the amounts of the permit application fee owed and submitted in the CEDS database.
2. Update the CEDS database for the amounts of the permit application fee owed and submitted if it changes during the permit application review process.
3. Ensure that the two amounts match before proceeding with the review process.

VIII. Resolution of permit application fee problems.

Permit Application Fee Deficiencies

9 VAC 5-80-2290 B states that "review of the application will not proceed past an initial applicability determination until a permit application fee for the proper amount is received."

This requirement is intended to protect the permit application fee process from abuse, and is not intended to interfere with the regional office's authority to manage its workload. As long as (1) the applicability and amount of the permit application fee is not in dispute, and (2) the regional office is reasonably sure that the proper fee is being submitted concurrently with the review, then the regional office may use its discretion in expending man-hours to conduct permit application review beyond the initial applicability determination while awaiting the submission of the deficient application fee. If however, the fee deficiency is not corrected within 10 business days of the date of the deficiency letter, review should be suspended until the deficiency is corrected. Ten business days provides plenty of time for the owner to correct the deficiency in addition to any mailing delays that may occur. In no case should the permit application review process ever proceed as far as sharing a draft permit with the source (or the public) without first resolving any outstanding permit application fee deficiencies.

If the NSR applicability status of the application changes after the *NSR Program* initial applicability determination and if DEQ determines that the amount of the permit application fee submitted is insufficient for the new NSR applicability status as a result of that change, then the permit review process should be suspended until the applicant submits the additional permit application fee amount.

If the permit application fee deficiency has not been corrected by the time the deadline contained in the initial applicability determination and deficiency notification letter has been reached, the regional office may be justified in returning the application to the applicant, thereby withdrawing the application from review.

Determining of the applicability and amount of permit application fees owed may be difficult or impossible for owners of small sources that do not have some expertise in air pollution permitting matters. It should be expected that some applications will be submitted without the required permit fee. It should also be expected that owners of such sources will call the DEQ regional office for assistance in calculating these fees.

Changes in the Amount of Permit Application Fees resulting from Changes in the Application.

The amount of the permit application fees owed to DEQ depends on which of the different levels of review to which the application is subject (under Article 9, Article 8, Article 7 Article 6, and Article 6 General Permits) (see section V). If the owner makes changes to the application, it is possible that the levels of review to which the application is subject may also change (for example, if new equipment is added to the application, then an Article 8 PSD NSR review for NOx may become required instead of just the Article 6 NSR review previously required).

If the required level of review changes, then the application may become subject to additional fees. For example, a proposed major stationary source locating in the Northern Virginia Nonattainment Area has a proposed PTE of 40 tons per year of VOC and 15 tons of particulate matter. The application is initially determined to be subject only to NSR review under Chapter 80, Article 6. The total permit application fee for review of under Article 6 is $5300.[27] Midway though the review process, the owner changes the application to add a second press to the *facility*, increasing the PTE of

[27] The particulate matter in this example is exempt from permitting requirements under Article 6., but had it not been exempt, the permit application fee would have still been only $5300. That is because the permit application fee for NSR review under any one category (Article 9, Article 8, Article 7, Article 6 or Article 6 General Permit) is only assessed once.

the proposed stationary source to 80 ton per year of VOC and 30 tons of particulate matter. The application is now subject to Article 9 Nonattainment review for the VOC emissions (a $20,000 permit application fee contribution) and the application is still subject to Article 6 NSR review, this time for the particulate emissions, for a total permit application fee amount of $25,300. The difference ($20,000) will be required before continuing with review of the permit application.

If the application is changed during the review process such that a lower level of review would be required, NO refund of the permit application fee will be due to the owner (primarily because man-hours may have been expended conducting some portion of the higher level of review). The regional office is not responsible for justifying "no refund" by accounting for work accomplished. The regulatory language of 9 VAC 5-80-2290 A is sufficient.

In summary, for changes in the permit application that result in changing the level for review required for the application: (1) the highest permit fees for any application review work started still applies, regardless of the type of permit eventually issued, (2) permit application fees are only assessed ONCE for each category of permit review required (Article 9, Article 8, Article 7, Article 6, or Article 6 General Permit), and (3) the maximum permit application fee for any one application is $30,000.

Refunds of Permit Application Fees

In accordance with 9 VAC 5-80-2290 A, the permit application fees are non-refundable.

However, this does not mean that the applicant should be penalized for an honest error that does not result in DEQ expending permitting resources beyond the initial applicability determination stage of the application review. In two exceptional situations (and only these two), refunds may be appropriate:

1. Inadvertent overpayment of the required permit application fee. When the applicant has inadvertently submitted a permit application fee in excess of the MAXIMUM amount that DEQ had determined was appropriate at any point during the review process, then the amount of the permit application fee in excess of that maximum amount may be refunded to the applicant.[28] This only applies to errors made by DEQ or the applicant in calculating the permit application fee amount. This exception specifically does not apply to situations involving changes to the application that reduce the level of NSR review required. There is no obligation for DEQ to refund the permit application fee created by this exception. The determination of whether this exception is appropriate lies entirely within the DEQ's discretion.

2. When the application is submitted in error and the application is withdrawn before the review process proceeds beyond the initial applicability determination. This might happen either as a result of action, or of inaction, on the part of the owner:

    a. If the applicant formally withdraws the application before DEQ expends any resources beyond making the initial applicability determination, then the full amount of any

[28] It is appropriate to use the MAXIMUM amount of the permit fee that DEQ determined was appropriate during the entire permit application review process because the man-hours spent on the application reflects what was done over the entire review process. If the application required HAP NSR review during one part of the early review process before the application was simplified, then extra man-hours may have been expended on those requirements before the application was changed. The permit application fee owed should properly reflect the additional cost of the extended review.

permit application fee submitted may be refunded to the applicant, at the sole discretion of DEQ.

This exception applies only to situations in which the applicant clearly made an error in predicting the *NSR Program* applicability of the proposal and wishes to withdraw the application either before, or as a result of, DEQ's initial determination letter. This exception specifically does not apply to withdrawals that are perceived by DEQ to be the result of any part of the application review process other than the initial applicability determination. Ineligible reasons include (but are not limited to) withdrawal as the result of any of the following: any changes to the proposed project made by the applicant; any negotiations with any regulatory authority; any perceived opposition by the public or local governing bodies; any adverse findings by the affected Federal Land Managers; any proposed permit conditions that the applicant finds unsatisfactory; or an actual or threatened denial of a permit.

b. If the applicant does not respond to, and resolve, deficiencies that are identified in the initial applicability determination letter within a reasonable period (usually a 30-day deadline stated in the initial applicability determination letter) and DEQ chooses to withdraw the application from review as a result of that unresolved deficiency, then DEQ may, at its discretion, assume that the applicant made an error in submitting the application in the first place and refund the full amount of the permit application fee.

This refund exception does not apply to situations in which the applicant indicates that the original application was NOT an error, i.e. situations in which the applicant corrects the initial deficiencies but fails to respond to or correct subsequent deficiencies or in situations in which the applicant corrects some of the initial deficiencies identified in the initial deficiency letter and fails to respond to or correct others.

There is no obligation to refund the permit application fee created by this exception. For example, if the applicant is perceived by DEQ to be deliberately refusing to respond to, or refusing to resolve, deficiencies in the application for the purpose of obtaining a refund that would not otherwise be allowed, then DEQ may choose to withdraw the application from consideration without providing a refund.

In all other cases, the permit application fee is NOT refundable. Any doubt as to the validity of the reason for a refund under these exceptions must favor the language of 9 VAC 5-80-2290 A.

If a refund for an honest error is deemed by DEQ to be appropriate, that refund not shall be made until after DEQ makes a final decision on the permit application (i.e. by issuing the permit to the applicant, denying a permit to the applicant, or by formally withdrawing the application from review).

If a refund is determined by DEQ to be appropriate and due to the owner, the refund request must be initiated by the regional office that received the permit application. The refund request must be submitted as a memorandum from the DEQ Regional Director to the DEQ Office of Financial Management (ATTN: Judy Newcomb). It must be signed by the Regional Director (the unit manager) or his designated representative. The request must contain the following information:

1. Identification of the owner or source, and the payment. That will consist of either:
    a. A copy of the processed permit application fee form, or
    b. Equivalent information that uniquely identifies the stationary source and the previously processed permit application fee payment, such as the "customer" and "receipt number" from finance office records (see DEQNet2 files at admin/admin_finance/ar_dailydc).
2. The reason for the refund. That reason must either be:
    a. Inadvertent overpayment of the required permit application fee, or
    b. The permit application was submitted in error and withdrawn.
3. The amount to be refunded.
4. DEQ's final decision concerning the application (issued or withdrawn).
5. Supporting documentation.

IX. Responsibilities

The DEQ regional office is responsible for:

1. Making the initial Article 10 applicability determination for each application, determining the amount of application fees owed, informing the applicant of any deficiencies in the permit application fee submitted, and ensuring that the permit application fee deficiencies are corrected before the review process proceeds.
2. Keeping track of any changes to the amount of permit application fees owed that occur during the application review process, informing the applicant of any deficiencies in the permit application fee submitted resulting from these changes, and ensuring that any resulting permit application fee deficiencies are corrected before the review process proceeds.
3. Entering the amount of the permit application fees owed and the amount of the permit application fees submitted into the CEDS database, and updating the database as necessary for changes.
4. Determining if any permit application fees were submitted in error, and authorizing refunds of permit application fees submitted in error.
5. Assisting owners with determining the applicability and amount of permit application fees to be submitted with their application. This assistance is not to be considered authoritative, since the regional office is not yet informed concerning the details of the application. It should instead take the form of advice on how to determine permit application fee applicability and fee amounts properly.

The DEQ Office of Air Permit Programs is responsible for:

1. Coordinating the development of the CEDS module for tracking permit application fees owed and submitted throughout the permit review process.
2. Working with the Office of Data Analysis to develop a CEDS module for crediting the amount of the permit application fees toward the first two years of annual program fees.
3. Train and advise DEQ regional office staff in the process of making permit application fee determinations.
4. Develop and modify application forms and instructions to facilitate the submission of permit application fees.
5. Coordinate and recommend any necessary changes to this guidance.
6. Incorporate this guidance into permit processing manuals.

The DEQ Office of Air Data Analysis is responsible for:

1. Working with OAPP to develop a CEDS module to generate annual program fee amounts that properly credit the amount of permit application fees toward the annual program fees.
2. Using the CEDS database to generate annual program fee amounts that properly credit the amount of permit application fees toward the annual program fees.
3. Evaluate requests for revisions of the amount of annual program fees billed to the owner, and correct billing as necessary in response to these requests.

If you have any questions regarding this guidance please contact the Office of Air Permit Programs (Tamera Thompson at (804) 698-4502).

APPENDIX A

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR PERMIT APPLICATION FEE

INTRODUCTION

Applicants for an Air Permit for the construction/relocation/reactivation of a NEW major stationary source at an undeveloped site are required to pay a permit application fee. (Applications for "exempt" sources, new "non-major" sources, and "modified" sources are NOT subject to permit application fees.)

If the proposed stationary source is "new", will be located at an "undeveloped site" and is considered "major" under one of the following NSR air permit programs, then the air permit application must be accompanied with the appropriate application fee: Major Stationary Sources in Prevention of Significant Deterioration (PSD) Areas, Major Stationary Sources Locating in Non-attainment Areas, or New Major Sources of Hazardous Air Pollutants. Also, air permit applications for new major stationary sources subject to New Source Review and/or General Permits under Chapter 80, Article 6 of the Regulations must be accompanied by the appropriate application fee.

Applications will be considered incomplete if the proper fee is not paid and will not be processed until the fee is received. Air permit application fees are not refundable.

Instructions and references are provided on the reverse side of this form. If required, this form and a check (or money order) payable to "Treasurer of Virginia" should be mailed to the Department of Environmental Quality, Receipts Control, P.O. Box 10150, Richmond, VA 23240. Copies of the form and check (or money order) should accompany the permit application. Retain a copy for your records. Any questions should be directed to the DEQ regional office to which the application will be submitted.

COMPANY NAME: _____ **FIN:** _____

COMPANY REPRESENTATIVE: _____

MAILING ADDRESS: _____

BUSINESS PHONE: _____ **FAX:** _____

FACILITY NAME: _____

PHYSICAL LOCATION: _____

Check all that apply to this application for a NEW MAJOR STATIONARY SOURCE:

Types of NSR Review Required:	☐ PSD Major NSR Review	☐ NON-ATTAINMENT Major NSR Review	☐ HAP Major NSR Review	☐ ARTICLE 6 NSR Review	☐ ARTICLE 6 GENERAL PERMIT	TOTAL PERMIT APPLICATION FEE
AMOUNT OF FEE:	$30,000	$20,000	$15,000	$5,300	$300	$ (MAX $30,000)

DEQ OFFICE TO WHICH PERMIT APPLICATION WILL BE SUBMITTED (check one)

☐ Abingdon/SWRO	☐ Harrisonburg/VRO	☐ Fredericksburg/FSO	☐ Woodbridge/NVRO
☐ Lynchburg/SCRO	☐ Richmond/PRO	☐ Roanoke/WCRO	☐ Virginia Beach/TRO

FOR DEQ USE ONLY
Date:
DC #:
Reg. No.: _____

Send Original Form and Check to: DEQ Receipts Control, P.O. Box 10150, Richmond, VA 23240
Send Copies of Form and Check to: the DEQ regional office

APPENDIX A

INSTRUCTIONS

This form must be completed and submitted with an appropriate permit application fee if the air permit application (Form 7) is for a proposed stationary source that meets ALL of the following:

1. The application is subject to new source review (NSR) permitting requirements under one or more of the four New Source Review permit programs described in Chapter 80 of the Regulations: Article 8 (PSD Major NSR), Article 9 (Nonattainment Major NSR), Article 7 (Hazardous Air Pollutant Major NSR) or Article 6 (New Source Review for Stationary Sources). ☐ YES ☐ NO
2. The proposed stationary source is "new" in the sense that ALL of the proposed emissions units will be constructed at the site, relocated to the site, or reactivated at the site. ☐ YES ☐ NO
3. The site of the proposed stationary source is "undeveloped" in the sense that there are no emissions units already legally constructed and/or operating at the site (i.e. the proposed stationary source will not become part of the same stationary source with a stationary source already there). ☐ YES ☐ NO
4. The proposed new stationary source will be classified as a "major stationary source" under one of the applicable NSR permit programs (listed in 1 above). ☐ YES ☐ NO

If the application meets ALL FOUR of the above requirements, then complete this Application Fee Form as follows and submit it with a check (or money order) for the appropriate permit fee to DEQ Receipts Control:

1. Provide the full name of the company and the mailing address to which the permit will be sent.
2. Provide the name and contact information for a company representative that has a good working knowledge of the project and who will be able to answer questions concerning the application.
3. Provide the name of the proposed facility and its full street address. If no street address is available, then provide a description of the location of the proposed facility (such as directions on how to get there).
4. Check off each of the types of air permit NSR review that the application will be subject to. If you are unsure which regulation applies to your project, refer to the Virginia Regulations cited below. The air regulations are available on the VADEQ internet site: http://www.deq.virginia.gov/air/regulations/airregs.html. If you need assistance, contact the DEQ regional office that will be reviewing the application.
5. Add together all of the fee values under the checked NSR programs that are applicable and fill in the total under “Total Permit Application Fee”. 9 VAC 5-80-2250 requires that projects falling under the jurisdiction of two or more Virginia NSR permit regulations will pay an application fee equaling the sum of the individual fees, up to but not exceeding $30,000.00.
6. Indicate which VADEQ Regional Office will be reviewing the air quality permit application.
7. Mail the completed form and a check (or money order) for the amount of the air permit application fee (made payable to "Treasurer of Virginia") to the Department of Environmental Quality, Receipts Control, P.O. Box 10150, Richmond, VA 23240.
8. A copy of the form and a copy of the check (or money order) should also accompany the permit application sent to the appropriate DEQ regional office. Keep a copy for your records. Direct any questions regarding this form or payment of the permit application fees to the DEQ regional office to which you are submitting your application.

Applicable NSR permit program:	**VA Administrative Code:**
Major Stationary Sources Locating in PSD Areas (Ch. 80, Article 8)	9 VAC 5-80-1700 through 1970
Major Stationary Sources Locating in Non-attainment Areas (Ch. 80, Article 9)	9 VAC 5-80-2000 through 2240
New …Major Sources of Hazardous Air Pollutants (Ch. 80, Article 7)	9 VAC 5-80-1400 through 1590
New …Stationary Sources (Ch. 80, Article 6)	9 VAC 5-80-1100 through 1320
General Permits (Ch. 80, Article 6)	9 VAC 5-80-1250